

COMMONWEALTH OF VIRGINIA



SUMMONS - CIVIL ACTION

Case No. CL10000199-00

PRINCE EDWARD CIRCUIT COURT

111 SOUTH STREET FARMVILLE, VA 23901

ADDRESS

TO:

VANDERBILT MORTGAGE & FINANCE INC.

SERVE: CT CORPORTION SYS. REG. AGENT

4701 COX ROAD, SUITE 301, GLEN ALLEN, VA 23060

(HENRICO COUNTY)

The party upon whom this summons and the attached complaint are served is hereby notified that unless within 21 days after such service, response is made by filing in the clerk's office of this court a pleading in writing, in proper legal form, the allegations and charges may be taken as admitted and the court may enter an order, judgment, or decree against such party either by default or after hearing evidence.

Appearance in person is not required by this summons.

Done in the name of the Commonwealth of Virginia.

AUGUST 6, 2010

DATE

MACHELLE J. EPPES

Clerk

by

Machelle J. Eppes
DEPUTY CLERK

VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF PRINCE EDWARD

LISA D. VAUGHAN,

Plaintiff

v.

Case No.:

CMH HOMES, INC.

P. O. Box 9780

Maryville, TN 37802

Serve: CT Corporation System
Registered Agent
4701 Cox Road, Suite 301
Glen Allen, VA 23060
(Henrico County)

VANDERBILT MORTGAGE & FINANCE, INC.

P. O. Box 9800

Maryville, TN 37802

Serve: CT Corporation
Registered Agent
4701 Cox Road, Suite 301
Glen Allen, VA 23060
(Henrico County)

Defendants

VALIDATE CASE PAPERS

RCPT : 10000004670
DATE : 08/06/10 TIME: 15:10
CASE : 147CL10000199-00
ACCT : VAUGHAN, LISA D
AMT. : \$258.00

COMPLAINT

COMES NOW your plaintiff, by counsel, and moves for judgment against the defendants, CMH Homes, Inc. and Vanderbilt Mortgage & Finance, Inc., jointly and severally, on the grounds and in the amount set forth below:

1. That the plaintiff is a single mother of two children and, is a resident of the County of Prince Edward, County, Virginia.

WILLIAMS, LUCK & WILLIAMS
P. O. Box 345
Farmville, VA 23901-0345
(434) 391-1195

2. That the defendant CMH Homes, Incorporated is a corporation organized under the laws of the State of Tennessee which has designated CT Corporation System, Registered Agent, and is doing business in The Commonwealth as Oakwood Homes, 2650 West Third Street, Farmville, Virginia and is engaged in the business of manufactured homes which it sells through various agents in the Commonwealth, and finances the sells of these manufactured homes through the defendant Vanderbilt Mortgage & Finance, Incorporated which is a corporation organized under the laws of the State of Tennessee and has designated CT Corporation System its Registered Agent. These two defendants share several officers and directors in common.
3. That the defendant CMH Homes, Inc., also owns real estate in the County of Prince Edward upon which it has placed manufactured homes and sells said real estate with improvements thereon to the public.
4. That the defendant CMH Homes, Inc., holds out to the general public, that each and every one of its manufactured homes and the land upon which they are placed; and sold to the public as a residential home are constructed of sound material and in a good and workmanlike manner and free from defects; and that the residential homes are safe and fit for the purpose for which they are used and for which they were designed, namely, to be inhabited and occupied as a residential home.
5. That on the 6th day of February, 2009, the plaintiff, relying upon the implied warranty of the defendant that the manufactured home which had been

placed on a foundation and had become a part of the land was safe, fit and habitable for the purpose of being a residential home and purchased a 1.51 acre tract of land in the Prospect Magisterial District, Prince Edward County, Virginia with a double wide manufactured home made by CMH; Model "Designer"; Stock No.: OX8826; Serial No.: OHCO18826NCAB, and new as of 2009, attached to said land, for the price of One Hundred Twenty-Three Thousand Five Hundred Ninety Four Dollars and Forty-Five Cents (\$123,594.45) as appears on the sale contract and deed attached hereto as Exhibit "A".

6. That the plaintiff's purchase of this land and home was financed by the defendant Vanderbilt Mortgage & Finance, Incorporated as account #37511 which knew of the implied and expressed warranty of the defendant CMH Homes, Inc., and as such became a part thereof, as appears on the deed of trust attached hereto as Exhibit "B".
7. That upon the purchase of this manufactured home the defendant CMH, Inc. provided the plaintiff with a written, one-year, warranty for the manufactured home she purchased on February 6, 2009, as appears on the copy attached hereto as Exhibit "C".
8. That within thirty (30) days of her purchase of this land and home, the plaintiff began having problems with the failure of the well for this home providing sufficient water for the use of her family.
9. That the plaintiff contacted the defendant CMH Homes, Inc., to complain about the lack of water provided by said well.

10. That on or about April 24, 2009, the defendant CMH Homes, had a well drilled on the plaintiff's land pursuant to its implied and expressed warranty. The April 24, 2009 drilling, produced a dry hole.
11. That on or about April 29, 2009, the defendant CMH Homes, again, drilled a well on the plaintiff's land, but this well did not produce sufficient water to make the home habitable as a residence for the plaintiff's family; the plaintiff could not complete a shower without running of water; the plaintiff could not cook with said water; the plaintiff could not wash her clothes with this water.
12. On January 29, 2010, the plaintiff sent the defendant CMH Homes a certified letter demanding the defendant to correct the water problem she was experiencing at the home sold to her. A copy of this letter is attached as Exhibit "D."
13. In response to this letter, the defendant CMH Homes had another well drilled on the plaintiff's land and this well did not produce any water, and the defendant CMH Homes informed the plaintiff there was nothing else it could do to comply with it warranties.
14. That the plaintiff still does not have sufficient water to live in this house, she still cannot wash her clothes; she still cannot take a shower; she still cannot consume this water, and she cannot cook with this water.
15. That throughout this period the plaintiff has continued to make her monthly mortgage payment in the amount of \$781.20 to the defendant Vanderbilt Mortgage.
16. That on or about March 30, 2010, the plaintiff became aware of the fact that

the defendant CMH Homes, knew of the water insufficiency at the land it sold to her, prior to the sell. Yet, the defendant CMH Homes did not inform the plaintiff of this problem. In fact, the defendant CMH Homes had drilled several wells on this 1.51 acre tract of land prior to the sale of this land to the plaintiff on February 6, 2009, and the defendant CMH Homes concealed this information from the plaintiff.

17. That as a direct and proximate result of the lack of water at the manufactured home which constituted a breach of warranty, the plaintiff has suffered and will continue to suffer great financial loss, as a result of not being able to live in this mobile Home, having to do her laundry at the laundry mat, having to purchase bottled water and having to move in with relatives.

WHEREFORE, your plaintiff prays that the Court set aside the above mentioned deed because of fraud and declare the same to be null and void and of no effect; that the defendants be ordered to deliver up said deed of trust to be cancelled; that the defendant Vanderbilt be enjoined and restrained from conveying the said deed of trust or otherwise encumbering same; your plaintiff prays for judgment against the defendants jointly and severally in the sum of One Hundred Dollars (\$100,000.00) and for proper attorney fees and cost incurred in this matter.

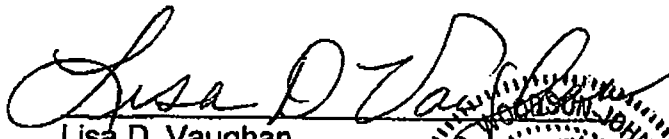
Respectfully submitted,
Lisa D. Vaughan, Plaintiff

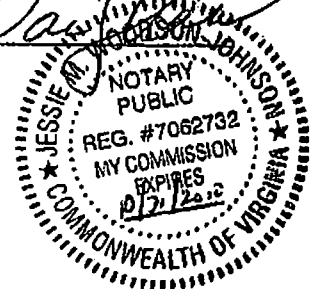

Lisa D. Vaughan

STATE OF VIRGINIA

COUNTY OF PRINCE EDWARD, TO WIT:

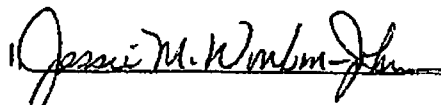
Lisa D. Vaughan, the plaintiff named in the foregoing Complaint being duly sworn says that the several matters and things set forth in the above said Complaint are true to the best of her knowledge and behalf.

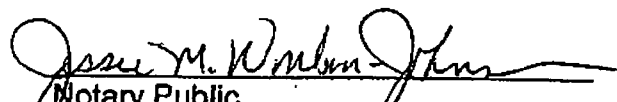

Lisa D. Vaughan




STATE OF VIRGINIA

COUNTY OF PRINCE EDWARD, TO WIT:

I,  a Notary Public in and for the County and State of Virginia, do hereby certify that **LISA D. VAUGHAN**, whose name is signed to the foregoing instrument has personally acknowledged the same before me within my County and State aforesaid on this the 6th day of August, 2010.


Notary Public


James E. Ghee, Esquire
Counsel for Plaintiff
WILLIAMS, LUCK & WILLIAMS
P. O. Box 345
Farmville, VA 23901-0345
(434) 391-1195 - Telephone
(434) 315-0297 - Facsimile

WILLIAMS, LUCK & WILLIAMS
P. O. Box 345
Farmville, VA 23901-0345
(434) 391-1195

EXHIBIT "A"

375111

DATE:

2/6/09

SALES AGREEMENT

BUYER(S): LISA D VAUGHN

ADDRESS: 3156 PIN OAK RD PAMPLIN VA 23958

DELIVERY ADDRESS/JOB LOCATION:

TELEPHONE: (434) 574-2927

327 RHODIES ROAD PROSPECT VA 23960

SALES PERSON FULL NAME: Antoine S Davis

BASE PRICE: \$96,800.20
 State Tax \$2,461.51
 Local Tax \$0.00

Make: CMH Model: DESIGNER
 Stock # QX8826
 Serial No. OHC018826NCAR New ☒ Used ☐

1. CASH PRICE \$99,261.71
 Trade Allowance N/A
 Less Amount Owed N/A
 Trade Equity N/A

Cash Down Payment \$6,000.00

2. LESS ALL CREDITS \$6,000.00

3. REMAINING BALANCE \$93,261.71

ESTIMATED MORTGAGE. Buyer is voluntarily purchasing any insurance products listed below. All numbers are estimated.

A. Other Changes
 Property Insurance \$465.00
 Title Fees \$20.00
 Filing Fees \$1,010.94
 LAND PURCHASE \$20,703.69

TITLE SEARCH \$125.00

\$0.00

ATTORNEY FEE \$564.00

DISCOUNT POINTS \$6,963.99

TITLE INSURANCE \$480.12

TOTAL \$30,332.74

B. Unpaid Balance (3+A) \$123,594.45

C. Interest Rate 6.50

D. Finance Charge \$165,165.54

E. Total of Payments (B+D) \$281,232.00

F. Total Sales Price (1+A+D) \$287,232.00

G. Number of Payments # 360

H. Payment Amount \$781.20

This is not a loan commitment.

TRADE: Make: N/A Model: N/A
 Year N/A Length N/A Width N/A Title #
 Serial No.

Amount owed will be paid by: Buyer ☐ Seller ☐

Owed to:

OPTIONS: N/A Spec home

Job Description/Start Date: Build New home 2/06/2009

Estimated* Completion Date: 2/06/2009

Materials: Lumber Nails Concrete Block

Buyer agrees dates above are estimates only and purchase decision is not based on any occupancy date.

SELLER RESPONSIBILITIES: Home Sold where is all Factory Warranties Apply

BUYER RESPONSIBILITIES: Contacting electric company to transfer power into her name Lot and Landscape maintenance

New homes meet Federal Manufactured Home Standards.

Buyer(s) agree: (1) that the terms and conditions on page two are part of this agreement; (2) to purchase the above home including the options; (3) they received and acknowledge receiving a completed copy of this agreement; (4) that all promises and representations made are listed on this agreement; and (5) there are no other agreements, written or verbal, unless evidenced in writing and signed by the parties.

SELLER/CONTRACTOR:

CMH Homes, Inc. d/b/a - OAKWOOD HOMES
 FARMVILLE VA
 Address: 2650 W. 3RD ST. FARMVILLE VA
 23901

Tele. No.: (434) 315-8952

Lic. No.: 2705 099059A

Specialty: Bldg. Highway Mod/Manf

Class: A Exp: 9/30/2009

BUYER:

X _____
 (Signature of LISA D VAUGHN)

X _____
 (Signature of)

X _____
 (Signature of)

X _____
 (Signature of)



Instrument# 200900291 Page 1

Revised from Charles T. N.

Prepared By Ralph E. Main, Jr., Attorney at Law

Tax Map Parcel 018-11-11

CONV# 18800000

Title Insurance Underwriter: Fidelity National Title

THIS DEED, made and entered into this 21st day of January, 2009, by and between CMH HOMES, INC., a Tennessee corporation, Grantor, and LISA D.

VAUGHN, Grantee, whose address is 5156 Vinland
Staphlin, IL 23956

WITNESSETH:

That for and in consideration of the sum of Ten Dollars (\$10.00) cash in hand paid and other good and valuable consideration, the receipt of which is hereby acknowledged, Grantor does hereby GRANT, BARGAIN, SELL and CONVEY with GENERAL WARRANTY and ENGLISH COVENANTS OF TITLE unto Grantee the following described property, to-wit: All that certain lot, piece or parcel of land, lying and being in the Prospect Magisterial District of Prince Edward County, Virginia, containing 1.51 acres, known and designated as Lot 11 of Serenity Acres, Section II, on a plat of survey by Robert S. Maxey, Jr., Maxey-Hines & Associates, P.C., dated January 30, 2004, and recorded in the Clerk's Office of the Circuit Court of Prince Edward County, Virginia on Slide A-305 #4, and being the same property which was conveyed unto Grantor herein by deed of Ann M. Lynch dated August 5, 2008 and recorded in the aforesaid Clerk's Office as Instrument Number 200802189.

The property hereby conveyed is subject to any and all easements, restrictions, reservations and conditions contained in duly recorded deeds, plats and other instruments constituting constructive notice in the chain of title to the above-described property which

Instrument# 200900291 Page 2

have not expired by a time limitation contained therein or which have not otherwise become ineffective.

Grantor has caused this deed to be executed and delivered on its behalf by Hugh T. Skatum its Vice President and duly authorized agent.

WITNESS the following signature.

CMH HOMES, INC.

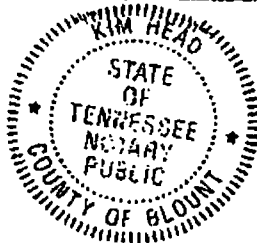
By: [Signature]
Its: Vice President

STATE OF Tennessee

COUNTY/CITY OF Blount to-wit:

The foregoing instrument was acknowledged before me this 23rd day of January, 2009 by Hugh T. Skatum Vice President and duly authorized agent of CMH HOMES, INC., a Tennessee corporation.

My Commission Expires: 12-9-12



Kim Head
Notary Public
Registration No. _____

Grantor's Tax: \$ 124.00
Examined and Mailed/Delivered To:
Date: 2.6.09 Jim Charleston

INSTRUMENT #200900291
RECORDED IN THE CLERK'S OFFICE OF
PRINCE EDWARD COUNTY ON
FEBRUARY 6, 2009 AT 03:12PM
\$124.00 GRANTOR TAX WAS PAID AS
REQUIRED BY SEC 58.1-802 OF THE VA. CODE
STATE: \$62.00 LOCAL: \$62.00

MACHELLE J. EPPES, CLERK
RECORDED BY: JMS

2 -

EXHIBIT "B"

375111

Retailer's 1 Year Limited Warranty on New Manufactured HomesRetailer Name **OAKWOOD HOMES FARMVILLE, VA**

License Number

2650 W. 3RD ST.

FARMVILLE,

VA

23901

Street Address

City

State

Zip Code

In Consideration of the purchase of

OHC018826NCAB

(Manufacturer's Serial Number)

Manufactured By: **CMH**Model Year **2008**

The following limited warranty is the only warranty provided by your Retailer, is effective for a period of 12 months from the date of delivery of the new manufactured home and is provided in accordance with the laws of the Virginia Manufactured Housing Licensing and Transaction Recovery Fund Regulations, 13 VAC 6-20-310:

1. Any modifications or alterations made to the manufactured home by Retailer or authorized by Retailer are free from defects.
2. Any setup operations performed on the manufactured home by the Retailer or by persons under contract to the Retailer are in compliance with the applicable Code requirements for the installation of manufactured homes.
3. Any defects occurring to the manufactured home during the course of transportation and set-up operations performed by the Retailer or by persons under contract to the Retailer will be corrected properly.
4. Repairs made under this warranty will be made at the site of the manufactured home, except for components which can be removed for service without undue inconvenience to the purchaser, if such defects become evident after the date of delivery of the home to the Purchaser, provided the purchaser gives notice of the defects in writing to the Retailer at the Retailer's business address, below.
5. Retailer will undertake any appropriate actions as ordered by the Virginia Manufactured Housing Board.

This warranty does not cover your loss of time, inconvenience or commercial loss, incidental charges or other consequential damages. Some states do not allow the exclusion or limitation of incidental or consequential damages so the above limitation or exclusion may not apply to you.

All implied warranties, including any implied warranty of merchantability, habitability or fitness for a particular purpose applicable to the items covered by this warranty are limited in duration to the terms of this limited warranty. Some states do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to you.

This warranty gives you specific legal rights, and you may also have other rights which vary from state to state.

Signature of Purchaser: _____

LISA D VAUGHN (Acknowledging Receipt)

Date: 2/6/09

Address: _____



Retailer's Limited Warranty-VA/456 warranty451

002579428-00010

EXHIBIT "C"

375111

AFTER RECORDING MAIL TO:

Name CMH Homes, Inc.

Address 5000 Clayton Road

City, State, Zip Maryville, Tennessee 37804

THIS DEED OF TRUST, made this the 6th day of February, 2009, by and between: Lisa D. Vaughan, unmarried party of the first part; Woods Rogers PLC whose address is 10 South Jefferson Street, Suite 1400, Roanoke, VA 24011, Sole acting TRUSTEE, party of the second part; and Vanderbilt Mortgage and Finance, Inc., party of the third part;

WITNESSETH:

THAT FOR AND IN CONSIDERATION of the trust hereinafter set out, the party of the first part does hereby grant and convey with General Warranty and English Covenants of Title unto the party of the second part the following described real estate, to wit:

See Attached "Exhibit A" (Legal Description)

OHC018826NCAB

IN TRUST to secure the payment of a Promissory Note dated 2/6/09, the principal amount of \$123,594.45 with a maturity date of 3/01/2039 made by: LISA D VAUGHN^{LDV}_{Vaughan}, payable to the order of the party of the third part, at PROSPECT, Virginia, or at such other place as holder may designate in writing, said principal being payable as provided in said Promissory Note.


This conveyance is made under the provisions of Virginia Code Sec. 55-59 and Sec. 55-60, and shall be construed to impose and confer upon the parties hereto and the beneficiary hereunder all the duties, rights, and obligations prescribed in said Virginia Code Sec. 55-59 and Sec. 55-60, and in short form as said sections provide.



1. Exemptions Waived.
2. Renewals or extensions permitted.
3. Right of Anticipation Reserved.
4. Insurance Required.
5. Advertisement Required -- Three (3) times in any newspaper published in the City of PROSPECT.
6. Subject to all upon default.
7. Substitution of trustee for any reason.
8. Either trustee may act.

NOTICE--THE DEBT SECURED HEREBY IS SUBJECT TO CALL IN FULL OR THE TERMS THEREOF BEING MODIFIED IN THE EVENT OF SALE OR CONVEYANCE OF THE PROPERTY CONVEYED.

WITNESS the following signature and seal:

OKWOOD HOMES 
(LAND OWNER)

(LAND OWNER)

STATE OF VIRGINIA

COUNTY OF PRINCE EDWARD

TO-WIT:

The foregoing instrument was acknowledged before me this 6 day of _____,
20____ by : _____

My Commission Expires: _____

Notary Public

Address

City, State and Zip

**SCHEDULE A
PROPERTY DESCRIPTION**

Lisa D. Vaughn

All that certain lot, piece or parcel of land, lying and being in Prospect Magisterial District, of Prince Edward County, Virginia, containing 1.51 acres, known and designated as Lot 11 of Serenity Acres, Section II, on a plat of survey by Robert S. Maxey, Jr., Maxey-Hines & Associates, P.C., dated January 30, 2004, and recorded in the Clerk's Office of the Circuit Court of Prince Edward County, Virginia, Slide A-305 #4.

Being the same property by deed recorded immediately prior hereto.

EXHIBIT "D"

LAW OFFICES
WILLIAMS, LUCK & WILLIAMS
ATTORNEYS AND COUNSELORS AT LAW
103 NORTH MAIN STREET, SUITE 201
P.O. BOX 345
FARMVILLE, VIRGINIA 23901

JERRY L. WILLIAMS, JR., P.C.
ROBERT A. WILLIAMS, P.C.
JAMES E. GHEE, P.C.

J. L. WILLIAMS, 1912 - 1988
JERRY H. LUCK, 1922-1991

MARTINSVILLE OFFICE:
45 JONES STREET
MARTINSVILLE, VIRGINIA 24112
(276) 638-2491

Telephone (434) 391-1195
Facsimile (434) 315-0297

DANVILLE OFFICE:
214 NORTH RIDGE STREET
DANVILLE, VIRGINIA 24541
(434) 792-7042

January 29, 2010

Manager
Oakwood Homes
2650 West Third Street
Farmville, VA 23901

RE: OWNER: LISA D. VAUGHAN
LOT #11 IN THE SERENITY ACRES, SECTION II SUBDIVISION IN
THE PROSPECT MAGISTERIAL DISTRICT OF PRINCE EDWARD
COUNTY, VIRGINIA

Dear Gentleperson:

This is to advise that our firm has been retained to represent Ms. Vaughan with the water problem she is having at the home and lot purchased from your company on February 6, 2009.

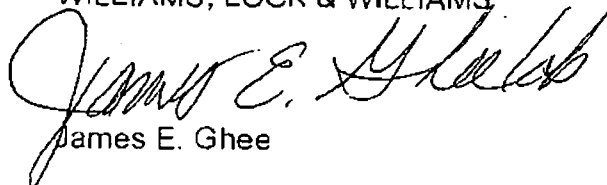
Ms. Vaughan has had problems with obtaining sufficient water pumped into her home since she moved in, in February, 2009. She is now asking that this problem be corrected and that it be corrected soon. She believes that the only solution is for you to have a new well drilled and for this well to be located on her property where there is a good water supply as recommended by the Prince Edward County Health Department.

Would you please let us know when you will commence this work.

Looking forward to hearing from you soon.

Sincerely,

WILLIAMS, LUCK & WILLIAMS



James E. Ghee

JEG/cb

c: Lisa D. Vaughan

100129oakltr

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Manager
Oakwood Homes
2650 W. Third St.
Farmville, VA 23901

2. Article Number

(Transfer from service label)

7004 2510 0005 2198 1919

COMPLETE THIS SECTION ON DELIVERY

A. Signature


☐ Agent☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

2-11-10

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes